IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 36502 of 2007(U)

PETITIONERS:
----

1. **SUNNY THOMAS, S/O.LATE THOMAS,**
   AGED PALAKKATTU KUNNEL, EDAMARUKU P.O.,
   MELUKAVU VILLAGE.

2. **MERCYKUTTY AMMA, W/O.SUNNY THOMAS,**
   DO. DO.

3. **ANNAMMA THOMAS, W/O.THOMAS, DO. DO.**

BY ADV. SRI.JOHNSON MANAYANI

RESPONDENT:

STATE BANK OF TRAVANCORE,
REP. BY ITS BRANCH MANAGER, ERATTUPETTA.

BY SRI.R.S.KALKURA, SC, SBT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

W.P.C. NO. 36502 OF 2007

= = = = = = = = = = = = = = =

Dated this the 11th day of December, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside Exts.P5 and P6 orders. Admittedly the decree is one on the basis of a mortgage. So the question of selling a portion of the property does not arise in the light of the decision of this Court reported in ***Dhanalakshmi Bank Ltd. v. Divakaran 2000 (2) KLT 231***. It is submitted that Rs.2 lakhs had already been paid. Now, the learned counsel for the writ petitioners would submit that if some breathing time is given the amount can be paid and also requests that the Bank may show some indulgence regarding some reduction in interest. I feel there is earnestness on the part of the writ petitioner to pay the amount. Therefore, I dispose of the writ petition as follows.

(1) The writ petitioners are directed to pay the balance amount on or before 31.3.2008. The first instalment

be paid on or before 2.1.2008 and the balance on 1.2.2008 and the last instalment on 31.3.2008. If there is default in making the payment of the first instalment the benefit given to him will be cancelled and the Court can proceed with the sale.

(2) The Bank authorities may also show some indulgence if it is permissible for them to reduce the interest. Since I have granted some time, the sale which is posted for tomorrow be deferred so as to enable the writ petitioner to wipe off the liability.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-